



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

April 30, 1954

Hon. Allan Shivers
Governor
Capitol Building
Austin, Texas

Opinion MS-128
Re: The constitutionality of
Senate Bill No. 27, 53rd
Legislature, First Called
Session, 1954.

Dear Governor Shivers:

You have requested an opinion of this office on the constitutionality of Senate Bill No. 27, 53rd Legislature, First Called Session.

The caption of Senate Bill No. 27 provides:

"AN ACT to amend Article III, Section 1, of the Foundation School Program Act, (Senate Bill No. 116, Chapter 334, Acts of the 51st Legislature, Regular Session, 1949); authorizing the approval of certain Foundation Program professional units; and declaring an emergency."

In the body of the bill Article III of Senate Bill No. 116, Chapter 334, Acts of the 51st Legislature, Regular Session, 1949, is rewritten. The following was added to its provisions:

" . . . and any school district which meets such area, population, and accreditation requirements and hereafter becomes eligible for fewer foundation program professional units than is required by the Central Education Agency for the continuation of a four-year accredited high school, may be allotted by the State Commissioner of Education a sufficient number of professional units to meet such accreditation requirements; . . . "

In addition to the foregoing change, the bill omits the numbered subdivisions (1) through (7) of Section 1 of Article III, which provide the method for determining and allotting units for the types of professional positions authorized under Section 2, Article II of the Foundation School Program Act, namely, (1) classroom teacher units, (2) vocational teacher units, (3) special service teacher units, (4) exceptionally children teacher units, (5) supervisor and/or counsellor units, (6) principal units, and (7) superintendent units.

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Section 35 of Article III of the Constitution of Texas provides:

"No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof, as shall not be so expressed."

The purpose of the above constitutional provisions is merely to reasonably apprise the legislators of the contents of the bill to the end that surprise and fraud in legislation may be prevented. Central Education Agency v. Independent School Agency, City of El Paso, Tex., 254 S.W. 2d 357 (1953). The title must be such as to reasonably apprise the public of the interests that are or may be affected by the statute. Gulf Insurance Company v. James, 143 Tex. 424, 185 S.W. 2d 966(1945). State v. The Praetorians, 143 Tex. 596, 186 S.W. 2d 973(1945). In the Praetorians case the Court of Civil Appeals in 184 S.W. 2d 299 held a similar caption to be defective. However, the Supreme Court stated that such a construction was not required but is arrived at by a strictness of reasoning not permissive in passing upon the provisions of Section 35 of Article III,

In the instant case the caption gives notice that it is amending Section 1 of Article III of the Foundation School Program Act. In addition thereto, it gives notice of authorizing the approval of certain Foundation Program professional units. The body of the act does precisely that. The body of the act amends Senate Bill No. 27 by adding certain provisions and deleting other provisions which have been noted above. The caption is broad enough to cover the amendments.

The effect of this bill is to repeal all the provisions in subdivisions (1) through (7) of Section 1 of Article III of Senate Bill 116 of the 51st Legislature and to authorize the allotment to certain school districts of the number of professional units required for accreditation purposes even though the average daily attendance during the preceding school year was not sufficient to provide that number of professional units. By repealing the provisions of subdivisions (1) through (7) there will be no longer a basis for determining and allotting the various types of professional units which are authorized by the Foundation School Program Act.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

JR:am:egw

By

John Reeves
Assistant